

**MINUTES OF THE APRIL 2007 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting:** A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, April 13, 2007, in Room 116, State Capitol, Des Moines, Iowa.
- Members present:** Representative Philip Wise, Chair, and Senator John P. Kibbie, Vice Chair; Senators Michael Connolly, Paul McKinley, and James Seymour; Representatives Marcella Frevert, David Heaton, and Linda Upmeyer. Sen. Thomas Courtney was present via telephone; Rep. David Jacoby was not present.
- Also present:** Joseph A. Royce and Emily Gardyasz, Legal Counsel; Kathleen K. West, Administrative Code Editor; James Larew, Administrative Rules Coordinator, and Deborah Svec-Carstens, associate counsel; fiscal staff, caucus staff and other interested parties.
- Convened** Rep. Wise convened the meeting at 8 a.m.
- Fiscal report** Ron Robinson presented the LSA fiscal report on two DHS rule makings that have a significant fiscal impact: Notice ARC 5716B and Notice ARC 5785B, which was also Filed Emergency ARC 5784B.
- PHARMACY EXAMINERS BOARD** Lloyd Jessen and Terry Witkowski represented the board.
- ARC 5739B** Proposed amendments to ch 8 include provisions for bulk counting machines, continuous quality improvement, and pharmacy licensure. Mr. Jessen reported that due to negative comments from the public the board will not be adopting the proposed amendment to 8.10(2) concerning a pharmacist's refusal to fill a prescription due to conscientious objection based on the pharmacist's ethical or moral beliefs. Rep. Wise commended the board's decision to not adopt the provision, which has been problematic in Illinois.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Anita Smith and Eugene Gessow represented the department. Other interested parties included citizens Angela Valadez and Laurynda Northway; Tony Bassett of Mercy Pediatric Clinics; Julie Jaksica of Iowa Medical Group Management Association; Becky Lenz of Mercy central billing; Kay Spear of ENT Clinics of Iowa; Carrie Fitzgerald of Child and Family Policy Center; and Karla Fultz McHenry of the Iowa Medical Society.
- ARC 5716B** Ms. Freudenberg reported that the medical assistance advisory council provided input on these proposed amendments which allow for annual, rather than monthly, issuance of Medicaid cards and will result in a savings of nearly \$500,000 per year in postage and printing costs, increased convenience and efficiency for Medicaid members, and less delay in obtaining services. The plastic cards will resemble cards issued annually by private insurers. Ms. Freudenberg explained that providers will be able to verify the cardholder's eligibility toll-free by telephone or on a secure Web site, and that the member's eligibility is valid for the whole month. Rep. Heaton noted that a large percentage of Medicaid members, such as elderly or disabled persons, remain continuously eligible. Ms. Smith summarized other states' practices and commented that use of the Web site is the most efficient and least costly method of verification of eligibility. Sen. Seymour commended the department for this change; Sen. Kibbie concurred. Committee discussion related to residency issues, additional burdens on providers, the potential loss of providers, and the importance of training for front desk personnel.
- Ms. Valadez and Ms. Northway expressed support for the proposed changes and commented that the annual card will facilitate their obtaining medical services for their children.
- Mr. Bassett commented that in addition to verifying eligibility of the cardholder, the clinic must also identify the primary care physician. Ms. Jaksica stated that Medicaid reimbursement won't cover the increased workload, and she asked for dialog between IME and physicians' business offices to develop other options. Ms. Lenz voiced concerns about whether 48 telephone lines will be sufficient to handle the verifications and noted that there are other changes that affect the filing of Medicaid claims. Ms. Spear presented concerns regarding physicians who travel around the state to clinics and do not have computer access. Ms. McHenry stated that the Iowa Medical Society concurs with comments made by providers concerning the Medipass program and the need to check both for eligibility and primary care provider for referral services.
- Ms. Fitzgerald expressed support for the amendments and appreciation to DHS for doubling the number of telephone lines and for the Web verification option. Ms. Fitzgerald encouraged the department to continue to streamline the process, to create a batch verification process, and to allow continuous eligibility for children.
- Sen. McKinley requested a demonstration of the Web authorization system.

Human Services Department (continued)

- ARC 5784B No action on amendments to ch 58 to implement the disaster reimbursement grant program. Discussion related to the nature of the 350 applications for reimbursements for repairs and purchases the department received after the recently declared statewide emergency.
- ARC 5768B No questions on 65.26 regarding student eligibility for food assistance.
- ARC 5770B No questions on amendments to consolidate nine Medicaid provider enrollment forms.
- ARC 5780B No action on 86.18 concerning health insurance data match for the HAWK-I program.
- ARC 5773B No questions on amendments to ch 153 regarding state payment program funding distribution to county CPCs.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

- ARC 5774B No questions on 62.1, definition of “breeder of a foal.”
- ARC 5777B No questions on 67.12, fostering oversight organizations and foster care homes for abandoned or surrendered animals.

ENVIRONMENTAL PROTECTION COMMISSION Diane Moles, Wayne Ferrand, and Laurie Sharp represented the commission.

- ARC 5795B No questions on proposed amendments to chs 40 and 43 concerning minor water main construction permits.
- ARC 5793B No action on 64.2(1), sanitary sewer extension construction permits.
- ARC 5792B No questions on amendments to make ch 67 compatible with federal requirements pertaining to land application of sewage sludge.
- ARC 5794B No action on 81.7(3)“a,” which pertains to certification of public water supply and wastewater treatment system operators. Sen. McKinley commended EPC on this common-sense approach to certification.

NATURAL RESOURCE COMMISSION Ken Herring and Lowell Joslin represented the commission.

- ARC 5802B No questions on proposed 51.10 concerning game management areas.
- ARC 5801B No questions on proposed 52.1(2)“a” regarding wildlife refuges.
- ARC 5800B No questions on proposed annual amendments to waterfowl and coot hunting seasons.
- ARC 5799B No action on amendments to ch 95 pertaining to game harvest reporting and landowner-tenant registration.
- ARC 5798B No questions on proposed amendments to ch 98, wild turkey spring hunting.
- ARC 5797B No action on proposed amendments to ch 99, wild turkey fall hunting.
- ARC 5803B No action on proposed amendments to ch 106, deer hunting by residents.
- ARC 5796B No action on proposed amendments to ch 107, rabbit and squirrel hunting.
- ARC 5751B No questions on ch 16, docks and other structures on public waters. Sen. Kibbie expressed appreciation for the agency’s work to resolve concerns.

LABOR SERVICES DIVISION Kathleen Uehling represented the division.

- ARC 5790B No questions on proposed amendments pertaining to elevators.

REVENUE DEPARTMENT Dick Stradley and Jessica Norris represented the department.

- ARC 5806B No questions on proposed amendments to ch 71 regarding the property assessment appeal board.

RACING AND GAMING COMMISSION Jack Kettering represented the commission. Other interested

parties included Jeff Peterzalek of the attorney general’s office and Rep. Rick Olson. Special review Rep. Olson requested a special review of 6.5(1)“h” concerning temporary suspension of licenses. Rep. Olson stated that suspension without notice and hearing is unfair since the charge may not be resolved until after the racing season. In effect, a suspended employee is deprived of a livelihood because the suspension in Iowa results in suspension in other states. Rep. Olson indicated that he has met with Mr. Ketterer and the committee chair and legal counsel and a possible solution has been worked out.

Mr. Ketterer commented on situations in which a license would be summarily suspended by the stewards. Mr. Peterzalek referenced a supreme court decision and Iowa law in his explanation of due process and summary suspension prior to an evidentiary hearing. Mr. Ketterer proposed that the commission adopt a definition of “immediate danger” in order to clarify when a license would be summarily suspended and offered to provide the language to the committee at the May meeting. Rep. Wise asked that Mr. Royce schedule a review for the May meeting. Sen. Kibbie suggested a “double-barrel” filing would be appropriate. Mr. Ketterer will respond to Sen. Seymour’s question about how many incidents involving immediate danger occur each year.

- INSURANCE DIVISION** Rosanne Mead, Kim Cross, Donna Flamm, and Pooja Thakur represented the division. Fred Haskins of the Iowa Insurance Institute was also present.
- ARC 5808B No action on amendments regarding electronic filing. Ms. Mead commented that a correction will be forthcoming in a separate rule making to clarify that the rule applies to forms, not rates. Mr. Haskins expressed appreciation for the correction.
- ARC 5778B Proposed 5.95 provides criteria for a cash refund of premium tax. Sen. McKinley suggested that the parties eligible for the refund be notified of the rule.
- ARC 5807B No questions on 15.80 to 15.87 concerning indexed products training.
- ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF** Melanie Johnson and Mike Tramontina represented the department. Monte Shaw of the Iowa Renewable Fuels Association was also present.
- Special review Ms. Johnson reported that proposed waiver criteria have been published and that both the IDED board and the renewable fuel infrastructure board approved the criteria for permanent and temporary waivers. Sen. Connolly expressed appreciation for the development of these standards. There was discussion about the pricing of E-85, the number of flex-fuel vehicles on the market, and the lack of UL-certified equipment. The committee held a special review of tax credit programs administered by the department. Director Tramontina distributed a summary of the programs and tax credits awarded. Mr. Tramontina explained that the grow Iowa values fund was structured to allow grants, loans and tax credits up to 10 percent of the capital investment; and, in the case of ethanol projects, the capital investment is very large. The IDED board has issued tax credits for ethanol projects at the rate of 6.73 percent of capital investment. There was discussion about policy for continued incentives for ethanol and biodiesel projects, insufficiency of feed stock and water supply, and competition with existing Iowa industries. Sen. Kibbie expressed support for the department's efforts.
- PROFESSIONAL LICENSURE DIVISION** Pierce Wilson represented the division. Gary Ellis represented the Iowa Optometric Association.
- ARC 5771B The proposed amendment to ch 181 phases in requirements for continuing education with examination (CEE). Mr. Wilson stated that the Iowa Optometric Association informed the board that a national task force will be providing information to the states about this type of continuing education. In order to give the national task force an opportunity to make its recommendations, the board decided to adopt the amendments, but without references to CEE. Mr. Wilson thanked the association for their input. Mr. Ellis expressed appreciation to the board for addressing the concerns of the association.
- Committee business** The minutes of the March 2007 meeting were approved. The next meeting was scheduled for the statutory date, May 8, 2007. Ms. Gardyasz announced that this is her last meeting with the committee as her resignation to become a full-time mother will become effective at the end of the legislative session. Rep. Frevert asked that the minutes reflect the committee's appreciation for Emily's dedicated and efficient service, which the committee applauded.
- Adjourned The meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Philip Wise

Vice Chair John P. Kibbie